

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129+136 Date of Decision:08.11.2024

1. CWP-30277-2024

KANCHAN AND ANOTHER ...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS ...Respondent(s)

2. CWP-30333-2024

ANIL KUMAR AND OTHERS ...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. B. S. Bajwa, Advocate; and Dr. Pankaj Nanhera, Advocate
for the petitioner(s).

Mr. R. S. Budhwar, Addl. A. G., Haryana.

Mr. Kanwal Goyal, Advocate and Ms. Sheena Dahiya, Advocate
for respondent(s)/HPSC.

TRIBHUVAN DAHIYA, J. (Oral)

These petitions are being decided together as the same are based on similar facts, and have been filed, *inter alia*, seeking a writ of *certiorari* quashing the letters/communications, dated 05.11.2024, received from the respondent/Haryana Public Service Commission, rejecting the petitioners' candidature for want of valid HTET/STET (Haryana Teacher Eligibility Test/State Teacher Eligibility Test) certificate for the post of Post Graduate Teachers (PGTs) pursuant to advertisement 18 to 37 of 2024, dated 23.07.2024. Further, a writ of *mandamus* has been sought directing the



respondents to allow the petitioner(s) to participate in the interview/selection process, since they have cleared the written examination.

2. Facts in brief are being taken from CWP No.30277 of 2024. The petitioners appeared for HTET held in May, 2024, and could not clear the same on account of a large number of questions being out of syllabus. The result was challenged by them by filing a petition, Civil Writ Petition No.21356 of 2024 titled *Minakshi Saini and others v. State of Haryana and others*, and they also sought permission to participate in the selection process for the posts of PGTs pursuant to the advertisement in question. Notice of motion was issued vide order dated 30.08.2024, and it was ordered to be heard along with a similar petition, Civil Writ Petition No.19876 of 2024 titled *Abhimanyu and others v. State of Haryana and others*. The petitioners in the latter petition have been permitted to participate in the selection process vide interim order dated 14.08.2024, and both the petitions are pending adjudication at motion stage. On that basis, the petitioners also submitted their application forms to the Commission, appeared for the written examination which was scheduled for 13.09.2024, and qualified the same. However, their candidatures have now been rejected vide impugned order dated 05.11.2024, for want of HTET certificate.

3. Learned counsel for the petitioner(s) have contended that once they have been permitted to participate in the selection process without the certificate, there is no justification in rejecting their candidatures at the last stage just before the interview. Besides, they are similarly placed as the petitioners in *Abhimanyu* case and, therefore, cannot be excluded from the selection process, as this is discriminatory.



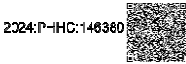
4. *Per contra*, learned counsel for the respondent-Commission, on instructions, contends that the petitioner(s) do not possess the essential qualification of HTET/STET certificate, and are not eligible for the posts advertised. They cannot claim parity with the petitioners in *Abhimanyu* case who were allowed to participate in the selection process by an interim order since they had approached the Court for the purpose before the closing date for submission of application forms. Similar interim relief was not granted to the petitioners in *Minakshi Saini* case, and only notice of motion was issued on 30.08.2024, for the reason closing date was over by the time they approached this Court. Further, despite there being no interim order in the petitioners' favour, they submitted application forms for the post without HTET certificate by misrepresenting the facts that they had also been permitted to participate in the selection process. In fact, the permission to submit the forms had only been granted to the petitioners in *Abhimanyu* case vide interim orders. The petitioner(s) were aware of their ineligibility to apply and participate in the process, therefore, they (except petitioners no. 5 and 6 in CWP-30333-2024) again approached this Court by filing another writ petition, CWP-24482-2024 titled *Abhimanyu and others v. State of Haryana and others* (hereinafter referred to as '*Abhimanyu-II* case'), *inter alia*, with a prayer to consider their online application forms valid for participation in the selection process, since the same were submitted while the Commission opened the online portal after grant of interim order(s) in three writ petitions (CWPs No.19682, 19876 and 19888 of 2024). The writ petition was not entertained, and dismissed as withdrawn vide order dated 23.09.2024. [Copies of the petition as well as the order were shown to the Court during the hearing.] By way of instant petitions, the petitioner(s) have approached this



Court once again seeking the identical relief, i.e., *a direction to allow them to participate in the selection process/interview*; this is impermissible. Besides, the fact regarding filing of the earlier writ petition, *Abhimanyu-II* case, and its dismissal has been concealed from this Court. Accordingly, the instant petition is an abuse of the process of law.

5. Heard.

6. It remains undisputed on record that the petitioner(s) do not possess the essential qualification of HTET/STET certificate for the post in question. Although their petition challenging the HTET result was entertained by this Court, they were not permitted to provisionally participate in the selection process *de hors* the essential qualification by granting interim order(s), as was granted to the petitioners in *Abhimanyu* case. It was for the reason the petitioner(s) herein had not approached this Court before the closing date for submission of application forms, whereas the petitioners in *Abhimanyu* case did. However, despite being ineligible and not having any interim order in their favour, they assumed eligibility by referring to interim direction(s) issued in *Abhimanyu* and other similar cases, and by suppressing correct facts submitted application forms which were accepted also. Once it was noticed by the Commission that they did not possess essential qualification for the post and were not allowed to apply for the same as per conditions stipulated in the advertisement, nor had they been permitted to apply by the Court, their candidatures were cancelled vide the impugned notices. This is unexceptionable; not doing so would amount to giving benefit of their own wrong to the petitioner(s) which is impermissible. They have participated in the selection process by incorrectly presenting/suppressing correct facts in a *mala fide* manner; resultantly, there is



no equity in their favour. Merely because they have inadvertently been permitted to appear for the written test before cancellation of their candidatures, cannot be a ground to allow them to further participate in the process by appearing for the interview. This would fly in the face of conditions notified in the advertisement.

7. Additionally, the instant petitions have been filed seeking direction for participation in the selection process, though the identical relief was previously sought by all the petitioners, except the two aforementioned, by filing *Abhimanyu-II* case which was dismissed as withdrawn vide order dated 23.09.2024. Besides, the petitioners in CWP-30277-2024, have not come to this Court with clean hands. The fact that they earlier approached this Court by filing *Abhimanyu-II* case seeking the same relief, has not been disclosed in the petition.

8. On the grounds aforementioned, the petitions cannot be entertained and stand dismissed accordingly.

9. A photocopy of this order be placed on the connected case file.

(TRIBHUVAN DAHIYA)
JUDGE

08.11.2024
Ad

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>